

## REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed May 27, 2009. At the time of the Office Action, Claims 1-16 were pending in this Application. Claims 1-16 were rejected. Claims 1, 6, and 11 are herein amended. Applicants respectfully request reconsideration and favorable action in this case.

### **Rejections under 35 U.S.C. §103**

Claims 1-4 stand rejected under 35 U.S.C. §103(a) as being unpatentable over EP Patent No. 1002709 issued to Jan Konried Schiffman et al. (“*Schiffman*”) in view of U.S. Patent No. 6,000,702 issued to Ralph Streiter (“*Streiter*”) and further view of U.S. Patent No. 6,502,023 issued to Yoshiki Fukada (“*Fukada*”).

Claim 5 stands rejected under 35 U.S.C. §103(a) as being unpatentable over *Schiffman* in view of *Streiter*, further in view of *Fukada* and further in view of U.S. Patent No. 5,670,872 issued to Gerjan F.A. Van De Walle (“*Walle*”).

Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, do not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* “Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog*

*Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

The independent claims have been amended to explicitly recite that relative movement between the vehicle body and the chassis is determined based on three respectively perpendicular linear accelerations and at least two rotational speeds without the use of displacement sensors for the wheels. For example, amended Claim 1 recites “an analysis entity which is combined with the measuring entity and is operable to determine a momentary movement position of the relative movement using the three linear accelerations and the at least two rotational speeds, and without using input from wheel displacement sensors.” Amended independent Claims 6 and 11 recite similar limitations.

In contrast, the cited references *Schiffmann*, *Streiter* and *Fukada* are good examples of prior art methods and systems using a displacement sensor for each wheel as explained in paragraphs [0005] to [0006] of the filed application. *Schiffmann* discloses the use of wheel position sensor signals 36 and 38 for determining the wheel position measurements taken relative to the body of the vehicle. (column 5, lines 37-39). *Streiter* teaches a path sensor 11 assigned to each wheel for indicating the distance between the wheel 1 and the vehicle body 2. (column 3, lines 41-59 and column 6, lines 21-31). *Streiter* teaches and suggest that these path sensors are used to calculate ground clearance. (column 7, lines 38-42). *Fukada* teaches a displacement sensor assigned to each of three wheels for detecting displacement of the three wheels relative to the vehicle body. (column 1, lines 33-35). *Fukada* teaches and suggest that these displacement sensors are used to calculate ground clearance. (column 1, lines 38-43). Thus, the cited references teach away from determining a relative movement between the vehicle body and the chassis based on three respectively perpendicular linear accelerations and at least two rotational speeds without the use of displacement sensors for the wheels.

For at least these reasons, Applicants respectfully submit that amended independent Claims 1, 6, and 11 are allowable over *Schiffmann*, *Streiter* and *Fukada*. Therefore, Applicants respectfully request reconsideration and allowance of amended Claims 1, 6, and 11, and all claims that depend therefrom.

**Association of Customer Number and Change of Correspondence Address**

Applicants respectfully request that all papers pertaining to the above-captioned patent application be associated with Customer No. **86528**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **86528**. All telephone calls should be directed to counsel at 512.457.2026. A Revocation and Power of Attorney will be filed shortly.

### CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.457.2030.

Respectfully submitted,  
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